

REMARKS

I. Introduction

In response to the pending rejection, Applicants have added new claim 8 to recite an additional aspect of the present invention not previously claimed. No new matter has been added.

The indication of allowable subject matter in claim 7 is acknowledged and appreciated. In view of the following remarks, it is respectfully submitted that all claims are in condition for allowance.

II. The Rejection Of Claim 1 Under 35 U.S.C. § 102

Claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Kage et al. (JP 8-045156). This rejection is respectfully traversed for the following reasons.

Claim 1 recites in pertinent part, “projecting portions provided at each both ends of said disc selecting lever ..., both of which the projecting portions abut on the disc to push down the disc when a large-diameter disc is transported” (emphasis added). In contrast, as shown in Figs. 6 and 7 of Kage, the alleged disc selecting lever 13 of Kage has only one projecting portion 13c, which operates to push down the disc. The second projecting portion 13a of the lever of Kage does not push the disc down. As clearly shown in Figs. 6 and 7, the portion 13a of Kage abuts the outside edge of the large disc, not the upper surface. As such, the portion 13a would function to direct the disc inwardly, but not downwardly. Thus, at minimum, Kage does not disclose a disc selecting lever, which has projecting portions on both ends thereof, both of which operate to push the disc in the downward direction.

As anticipation under 35 U.S.C. § 102 requires that each and every element of the claim be disclosed in a single prior art reference, *Akzo N.V. v. U.S. Int’l Trade Commission*, 808 F.2d 1471 (Fed. Cir. 1986), based on the forgoing, it is submitted that Kage does not anticipate claim 1, nor any claim dependent thereon. Accordingly, it is respectfully requested that the rejection of claim 1 under 35 U.S.C. § 102 be withdrawn.

III. All Dependent Claims Are Allowable Because The Independent Claim From Which They Depend Is Allowable

Under Federal Circuit guidelines, a dependent claim is nonobvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Hartness International Inc. v. Simplimatic Engineering Co.*, 819 F.2d at 1100, 1108 (Fed. Cir. 1987). Accordingly, as claim 1 is patentable for the reasons set forth above, it is respectfully submitted that claims 2-7 are also in condition for allowance.

In addition, new claim 8 further defines the rotational axis of the disc selecting lever of the present invention. Specifically, claim 8 recites that the disc selecting lever is rotatable about an axis along the direction perpendicular to the disc transportation direction and substantially parallel to a plane defined by the upper surface of the disc. In other words, referring to Fig. 1 of the application and the X,Y coordinate designations set forth therein, the disc selecting lever of the present invention is rotatable about the Y-axis. In contrast, the lever 13 of Kage is rotatable about the Z axis (the axis running into the page when referring to Fig. 1). Indeed, it is not possible for the lever of Kage to perform the function of the disc selecting lever of the present invention due to the fact that it is rotatable about the Z-axis. Accordingly, claim 8 recites an additional patentable feature over Kage.

Further, as non-elected claims 2-5 depend on allowable claims, rejoinder thereof is respectfully requested.

IV. Request For Notice Of Allowance

Having fully responded to all matters raised in the Office Action, Applicants submit that all claims are in condition for allowance, an indication for which is respectfully solicited.

If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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